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IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1972

No. 72-1437

PHYLLIS LYNCH, KELLY M. ALEXANDER, JR., ROBERT STEELE, and FLEDORA GRIER,
Petitioners,

-vs-

FRANK W. SNEPP, THOMAS F. MOORE, JR., DONALD W. STAHL, and ALL PERSONS IN STAHL'S EMPLOY,
Respondents.

ON WRIT OF CERTIORARI

BRIEF OF RESPONDENTS, FRANK W. SNEPP AND THOMAS F. MOORE, JR., IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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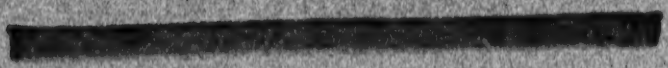

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1972

No. 72-1437

PHYLLIS LYNCH, KELLY M. ALEXANDER, JR., ROBERT STEELE, and FLEDORA GRIER, Petitioners

-vs-

FRANK W. SNEPP, THOMAS F. MOORE, JR., DONALD W. STAHL, and ALL PERSONS IN STAHL'S EMPLOY, Respondents.

BRIEF OF RESPONDENTS, FRANK W. SNEPP AND THOMAS F. MOORE, JR., IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

The Opinion and Preliminary Injunction of the District Court, rendered November 15, 1972, is reported at 350 F.Supp. 1134 (W.D.N.C., 1972).

The Opinion of the United States Court of Appeals for the Fourth Circuit rendered January 26, 1973, is reported at 472 F. 2d 769 (4th Cir., 2973). Both opinions are attached to the petition.

JURISDICTION

Jurisdiction of this Court is invoked pursuant to 28 U.S.C. 1254(1).

QUESTIONS PRESENTED

I

IS THE CASE MOOT?

II

DID THE FOURTH CIRCUIT CORRECTLY DECIDE THAT THE PETITIONERS HAD FAILED TO ALLEGE OR SHOW THAT THEY COULD NOT GET RELIEF TO WHICH THEY WERE ENTITLED IN THE STATE COURT, THUS RENDERING FEDERAL RELIEF INAPPROPRIATE?

CONSTITUTIONAL PROVISIONS, STATUTES AND RULES

Statute:

N.C. G.S. 14-288.18

§ 14-288.18. *Injunction to cope with emergencies at public and private educational institutions.*–(a) The chief administrative officer, or his authorized representative, of any public or private educational institution may apply to any superior court judge for injunctive relief if a state of emergency exists or is imminent within his institution. For the purposes of this section, the superintendent of any city or county administrative school unit shall be deemed the chief administrative officer of any public elementary or secondary school within his unit.

(b) Upon a finding by a superior court judge, to whom application has been made under the

provisions of this section, that a state of emergency exists or is imminent within a public or private educational institution by reason of riot, disorderly conduct by three or more persons, or the imminent threat of riot, the judge may issue an injunction containing provisions appropriate to cope with the emergency then occurring or threatening. The injunction may be addressed to named persons or named or described groups of persons as to whom there is satisfactory cause for believing that they are contributing to the existing or imminent state of emergency, and ordering such persons or groups of persons to take or refrain or desist from taking such various actions as the judge finds it appropriate to include in his order (1969, c. 869, s. 1.)

STATEMENT OF CASE

On October 17, 1972, Thomas F. Moore, Jr., the Solicitor of Mecklenburg County, presented his sworn petition in Superior Court of Mecklenburg County before the Honorable Frank W. Snepp, North Carolina Superior Court Judge. (In North Carolina, the solicitor acts as prosecutor for his district, and a superior court judge presides over superior court, North Carolina's highest trial court.) Solicitor Moore and Judge Snepp are the present respondents.

In his petition the solicitor recounted episodes of violence and disruption that had occurred at East Mecklenburg High School on October 26 and 27. He stated upon information and belief that similar disruption was imminent at the other high schools within the Charlotte-Mecklenburg school system and prayed the court for injunctive relief against further disruptions.

In response to the initial petition of the Solicitor, Judge Snepp issued his first injunction on October 27. Paragraph 3 of that injunction is pertinent to the present cause. In essence, it enjoined all but students, employees of the school, those with permission from school authorities, law enforcement officers, and parents or guardians transporting their children to school from entering school property. Notice was given in the injunction of October 27 that those wishing to contest its continuance could do so by appearing

at the show cause hearing to be held the following Monday.

At least three of the four petitioners to this Court appeared at the show cause hearing in State court on Monday, October 30, 1972, to contest the continuance of Judge Snepp's injunction. Judge Snepp found them to be within the class designated defendants in the State action. The hearing was held, and on the following day, October 31, 1972, Judge Snepp issued a second order which contained lengthy findings of fact and continued some of the provisions of his previous order of October 27.

The second order begins at page 60 of Petitioners' Petition. In it, Judge Snepp recounts incidents of fighting, disruption, threats, and violence that had occurred during three days of the preceding week at East Mecklenburg High School and had necessitated action by the Mecklenburg County Police. Arrest were made.

On the preceding Friday, East Mecklenburg High School, a school with a normal enrollment of 2,350 students, experienced twice its usual absenteeism. A football game was cancelled that night, and because of the disruptions it was directed that only seniors report to school for classes on Monday, October 30.

While disruptions were going on at East Mecklenburg High School, the Charlotte-Mecklenburg Board of Education received reports of disturbances at other schools within the system.

Judge Snepp found that "during the immediately preceding school year it was the experience that when disturbances began at one school they were shortly followed by disturbances at other schools." He then found that "there is imminent danger that such disturbances will spread to other units of the school system in Mecklenburg County." Judge Snepp's second order, like the first, enjoined people from entering the high school or junior high school campuses in the Charlotte-Mecklenburg school system with certain specified exceptions, including those with permission from school principals or administrative officers of the school system.

The present petitioners did not appeal the State court decision to North Carolina's appellate courts. Instead, they filed a complaint in the United States District Court on October 31. The action was not brought as class action.

Following a hearing held in the United States District Court for the Western District of North Carolina on November 3, 1972, at which testimony was heard from two of the four federal plaintiffs, the District Court entered its preliminary injunction that is appended to the Petition beginning at page 19.

The testimony in District Court showed that Messrs. Alexander and Steele are associated with the NAACP in connection with that group's youth activities. Both are adults. As part of their group work, they had been trying to have an NAACP club formed and officially sanctioned at East Mecklenburg High School in the Charlotte-Mecklenburg system. In an effort to gain official sanction for the club, they had sought permission to have leaflets distributed at East Mecklenburg High School. That permission had been denied them.

On the basis of the evidence presented, the District Court found the State court's restraint on visitation at high schools and junior high schools unconstitutional and issued an injunction against the enforcement of the state injunction. The District Court did not interfere with the other prohibitions of the State court. The federal injunction was issued on November 15, 1972.

Notice of appeal on behalf of the North Carolina Superior Court Judge and the solicitor was filed on November 20, 1972. The District Court was at that time requested to stay its order pending termination of the appeal. The District Court denied the motion for stay. Acting as a single circuit judge, the Honorable J. Braxton Craven, United States Circuit Judge, partially stayed the preliminary injunction of the District Court pending appeal and accelerated the appeal to the Fourth Circuit.

On appeal to the Fourth Circuit, the decision of the District Court was overturned on grounds of comity, and it was found that the District Court had abused its equitable discretion in issuing the injunction against the State court.

FACTS NOT CONTAINED IN THE RECORD BUT BEARING ON MOOTNESS

The Fourth Circuit issued the opinion from which review is now sought on January 26, 1973. On February 14, 1973, the solicitor filed a motion in Superior Court of North Carolina requesting that the order of October 27, 1972, be dissolved. That motion is attached hereto in the appendix. On the same day, Judge Snepp issued an order dissolving the injunction of October 17, 1972. Judge Snepp's order of dissolution is also attached.

The present petitioners have appealed the order of Judge Snepp dissolving his prior injunction. Their appeal does go to the subject matter of the jurisdiction of the Superior Court. The appeal is now pending in North Carolina Court of Appeals *sub. nom., State of North Carolina ex rel Thomas F. Moore, Jr. v. John Doe, Richard Roe and all others of like class and situation.* Briefs have been filed by both sides and oral argument is scheduled to be heard before the end of this month.

One of the biggest troubles with this case is that the facts are confused. The order of Judge Snepp entered on February 14, 1973, dissolves the prior injunction of October 27, 1972, but does not explicitly dissolve his second order of October 31, 1972. This is apparently due to oversight. However, there can be no question that the order of October 31, 1972, has been certainly treated as though dissolved by the order of February 14, 1973. This appears from a subsequent injunction issued by Judge Snepp on March 6, 1973, which is substantially the same as the injunction issued on October 31.

On March 6, 1973, pursuant to N.C. G.S. 14-288.18 the school board for the Charlotte-Mecklenburg school system filed a petition for injunctive relief with the Mecklenburg County Superior Court. That petition and affidavit is included in the appendix to this response. A state of emergency is alleged in the petition and an injunction pursuant to N.C. G.S. 14-288.18 is requested. On March 7, 1973, Judge Snepp issued an injunction which is also included in the present appendix. While the factual findings contained in the injunction of March 7 are different from those of the previous injunctions, the injunctive relief granted is almost identical to that in the order of October 31. Had Judge Snepp not considered the

order of October 31 dissolved, there would have been no necessity to have entered the second injunction.

The injunction of March 7, 1973, was dissolved on March 16, 1973, by order of Judge Snepp. An appeal from the issuance of the injunction of March 6, 1973, has been taken to the North Carolina Court of Appeals and is now pending before that court. That appeal attacks the provisions of the injunction as unconstitutional.

Finally, it should be noted that undersigned counsel has learned that the NAACP has been officially sanctioned as a club at East Mecklenburg High School. The NAACP was formally installed shortly after January 22, 1973.

ARGUMENTS

I

THE ISSUE IS MOOT.

This Court does not decide cases which lack controversy. *Muskrat v. United States,* 219 U.S. 346, 351-353, 55 L.Ed. 2d 246, 31 S.Ct. 250 (1911). Cases which become moot during the appellate process cannot be heard because they do not present a case or controversy within the meaning of Article III. *United States v. Alaska S. S. Company,* 253 U.S. 113, 64 L.Ed. 808, 40 S.Ct. 448 (1920). The question of mootness cannot be waived by the parties. *Ibid.*

This case is moot. As pointed out above, the injunction that the petitioners sought relief from in the federal court has been dissolved. Moreover, the aim which petitioners sought, official recognition for an NAACP club at East Mecklenburg High School, has been achieved. It is interesting to note that the club was recognized despite the pendency of the state injunction. (The federal district court injunction was stayed as to East Mecklenburg High School on November 21, 1972, pending the appeal.)

The fact that the injunction complained of has now been dissolved brings this case squarely within the Court's holding in *Oil*

Workers Union v. Missouri, 361 U.S. 363, 4 L.Ed. 2d 373, 80 S.Ct. 391 (1960). There the court refused to hear serious constitutional objections because the injunction in question had expired by its own terms.

In the present case, mootness is even more apparent. Not only has the injunction that was originally contested expired, but the petitioners have also achieved their stated ends. There simply is no longer a controversy between the parties. See also *Aetna Life Insurance Company v. Hawworth*, 300 U.S. 227, 240-241, 81 L.Ed. 617, 57 S.Ct. 461 (1937); *Liner v. Kaffco, Inc.*, 375 U.S. 301, 306 N. 3, 11 L.Ed. 2d 347, 84 S.Ct. 391 (1964); and *Henry v. Mississippi*, 379 U.S. 443, 447, 13 L.Ed. 2d 408, 85 S.Ct. 564 (1965).

II

THE FOURTH CIRCUIT CORRECTLY DECIDED THAT THE PETITIONERS HAD FAILED TO ALLEGE OR SHOW THAT THEY COULD NOT GET RELIEF TO WHICH THEY WERE ENTITLED IN THE STATE COURT, THUS RENDERING FEDERAL RELIEF INAPPROPRIATE.

Petitioners agree that comity is applicable in civil proceedings. The extent of its application and the standards by which it is to be applied have not been reached by this Court. *Mitchum v. Foster*, 407 U.S. 225, 32 L.Ed. 2d 705, 92 S.Ct. 2151 (1972). The respondents respectfully submit that the standards laid down by the Fourth Circuit are correct. However, even if the Fourth Circuit's standards were not correct it is clear from the findings by that court that if comity has any application to the present case, petitioners are entitled to no relief whatsoever.

Here is what the Fourth Circuit found that the present petitioners had failed to do:

> "There is, however, no allegation or showing that what overbreadth there exists in the superior court orders cannot be cured by an immediate appeal to the state appellate courts, the use of prerogative writs by the courts, or even by defending at the final

> trial on the merits before the superior court. There has been no allegation or showing on the record here that the judicial machinery of the state is being utilized in bad faith or for harassment. Furthermore, requiring the plaintiffs to first seek vindication of their rights in the pending state court proceeding will not expose them to risk of possible loss of liberty. The record is thus void of any indication that the plaintiff's (*sic*) remedy at law in the state court proceeding is inadequate or that there is present irreparable injuries sufficient to justify federal intervention." 472 F. 2d at 772.

The basic holding of the Fourth Circuit is simply that for the reasons stated above, the petitioners had failed to make a sufficient showing to justify direct federal intervention against the state injunction. Thus the "unfortunate juxtaposition" of two judges, one state, the other federal, should have been avoided.

It is true that lower courts are divided on whether or not, under certain situations, comity or to prevent a federal court from enjoining the enforcement of a state court injunction. See *Montgomery County Board of Education v. Shelton*, 327 F.Supp. 811 (N.D. Miss. 1971); *Gerbert v. Hoffman*, 328 F.Suppl 574 (E.D. Pa. 1971); *Duke v. State of Texas*, 327 F.Supp. 1218 (E.D. Tex. 1971); and *Machesky v. Bizell*, 288 F.Supp. 295 (N.D. Miss. 1968), reversed 414 F. 2d 283 (5 Cir. 1969). It is also true that the Fifth Circuit's decision in *Machesky v. Bizell, supra*, conflicts to at least some degree with the Fourth Circuit's decision below. However, that conflict is not as sharp as might appear because *Machesky* is based primarily upon *Dombrowski v. Pfister*, 380 U.S. 479, 14 L.Ed. 2d 22, 85 S.Ct. 1116 (1969) which was of course later limited by *Younger v. Harris*, 401 U.S. 37, 27 L.Ed. 2d 669 90 S.Ct. 747 (1971).

The basic point is that if comity is to have any application in civil proceedings, it should have prevented federal intervention in this case.

CONCLUSION

Wherefore, respondents pray that the Petition for Writ of Certiorari be denied.

Respectfully submitted,

ROBERT MORGAN
Attorney General of
North Carolina

CHARLES A. LLOYD
Assistant Attorney General

Counsel for Frank W. Snepp and
Thomas F. Moore, Jr., Respondents

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PROOF OF SERVICE

I hereby certify that I have this day personally deposited three copies of the foregoing Responde to Petition for Writ of Certiorari into the United States Post Office at Charlotte, North Carolina, first class postage prepaid, addressed to Counsel for the Respondents:

MR. GEORGE S. DALY, JR.
700 Law Building
Charlotte, North Carolina

I further certify that Raleigh, North Carolina, is less than 500 miles from Charlotte, North Carolina, and that I am a member of the bar of the Supreme Court of the United States. All parties required to be served have been served.

This _____ day of June, 1973.

ROBERT MORGAN
Attorney General of
North Carolina

Counsel for Frank W. Snepp and
Thomas F. Moore, Jr., Respondents

APPENDIX

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PETITION AND AFFIDAVIT OF CHARLOTTE-MECKLENBURG BOARD OF EDUCATION,
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MOTION

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

Filed February 14, 1973

STATE OF NORTH CAROLINA,
County of Mecklenburg.

STATE OF NORTH CAROLINA *ex rel*,
THOMAS F. MOORE, JR.,

versus

JOHN DOE, RICHARD ROE, and All Others
of Like Class and Situation, Defendants.

NOW COMES your petitioner in the above captioned matter and respectfully shows the Court that on or about the 27th day of October, 1972, your petitioner filed with the Court a Petition seeking injunctive relief to be applied to the schools within the Charlotte-Mecklenburg School System, that the same is incorporated by reference as if fully set forth herein. That subsequent to October 27, 1972, certain amendments to Petition were filed, same is incorporated by reference as if fully set forth herein; that on the 27th day of October, 1972 the Court filed an injunction restraining persons from certain types of conduct and action, that said injunction is incorporated by reference as if fully set forth herein.

That since the entry of the injunction in this cause, the matters as alleged in the Petition have apparently subsided and the necessity for the said injunction appears to your petitioner to have ceased.

NOW, THEREFORE, your petitioner prays the Court that an Order be entered whereby an injunction relief entered on October 27, 1972, be stricken pending further order of this Court;

That the Court retain supervisory jurisdiction of the subject matter;

And for such other and further relief as to the Court may seem just and proper.

This the 14 day of February, 1973.

THOMAS F. MOORE, JR.
Petitioner

ORDER

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

Filed February 14, 1973

STATE OF NORTH CAROLINA,
County of Mecklenburg.

STATE OF NORTH CAROLINA *ex rel*,
THOMAS F. MOORE, JR.,

versus

JOHN DOE, RICHARD ROE, and All Others
of Like Class and Situation, Defendents.

THIS CAUSE coming on to be heard and being heard before the undersigned Judge Presiding over the Superior Court of Mecklenburg County, and it appearing to the Court that on the 14th day of February, 1973, the petitioner in the above captioned case filed with this Court a Motion praying the Court to dismiss the Injunction filed on the 27th day of October, 1972; that the petitioner alleges that the matters alleged in the injunction have subsided and the necessity for said Injunction has ceased.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Injunction entered by the Court on October 17, 1972 in this matter be and hereby is stricken pending further orders of this Court.

This the 14th day of February, 1973.

FRANK W. SNEPP
Judge Presiding

PETITION AND AFFIDAVIT

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

Filed March 6, 1973

STATE OF NORTH CAROLINA,
County of Mecklenburg.

STATE OF NORTH CAROLINA *ex rel*,
THOMAS F. MOORE, JR.,

versus

JOHN DOE, RICHARD ROE, and All Others
of Like Class and Situation, Defendants.

The Charlotte-Mecklenburg Board of Education hereby moves the Court in this cause as follows:

1. That it be made a party plaintiff in the above entitled action, pursuant to Rules 20 and 21 of the Rules of Civil Procedure.

2. The said Board hereby adopts by reference the petition as amended, filed by the plaintiff Thomas F. Moore, Jr., in this action.

3. That a temporary restraining order and preliminary and permanent injunctions be issued, pursuant to GS 288.18 and Rule 65 of the Rules of Civil Procedure, and in support thereof, the following facts are specifically alleged:

(a) The undersigned is the Superintendent of the Charlotte-Mecklenburg School System and has authority to apply

for this Court for injunctive relief pursuant to GS 14-288.18.

(b) At West Mecklenburg High School on Friday, March 2, 1973, at about 8:30 a.m., widespread fighting broke out among students in halls, classrooms and outdoors on the campus. Many students refused to go to class after repeatedly being told by teachers and over the intercom system to do so. Large groups of students, at times numbering more than 100, moved about the campus, beating up other students and breaking furniture and windows of the school. Three injured students were sent to hospitals for treatment, and several other students were treated at the school for minor injuries. By order of the Mecklenburg police, the school was closed at 9:30 a.m. on Friday, and remains on a staggered schedule with only one class reporting per day. A further summary of events at West Mecklenburg High School is attached hereto and incorporated herein as Exhibit A.

(c) At South Mecklenburg High School on Friday, March 2, 1973, at the opening of school, about 100 students refused to go to class, but were finally persuaded by the principal to return to class at about 10:00 a.m. At South Mecklenburg High School on Monday, March 5, 1973, fighting broke out among students at about 8:30 a.m., and several were injured. The students were instructed by school authorities over the intercom system to go to class or leave the campus. About 100 students refused to go to class and left the campus at about 9:30 a.m. and walked toward downtown Charlotte along Park Road, finally dispersing about one and one-half miles from the school. On Monday evening, school officials received several reports of meetings among South Mecklenburg students planning to retaliate for the fighting that morning. The Superintendent decided to close schools on Tuesday because of the tension thus generated. South Mecklenburg High School is presently closed, and a staggered schedule will begin on Wednesday, March 7. A further summary of the events at South Mecklenburg High School is attached hereto and incorporated herein as Exhibit B.

(d) At Garinger High School on Tuesday, March 6, 1973, after an assembly program, at about 10:00 a.m., several students began to push and shove each other and fighting broke out. Persons who were not students at Garinger were seen in the crowd of students. Several hundred students were caught up in a wild melee.

Approximately 10 students were injured and required hospital treatment. Many windows were broken and several cars were overturned. The school was closed at 10:35 a.m. Garinger will begin a staggered schedule on Wednesday, March 7. A further summary of the events at Garinger High School is attached hereto and incorporated herein as Exhibit C.

(e) At Harding High School on Tuesday, March 6, 1973 at about 8:30 a.m. approximately 40 students refused to go to class; eventually the school administration persuaded most students to go to class. There was also a threatened disturbance at the lunch hour at Harding High School. The school administration determined that tensions were high and that a staggered schedule would be begun on Wednesday, March 7. A further summary of events at Harding High School is attached hereto and incorporated herein as Exhibit D.

(f) At Quail Hollow Junior High School at about 8:15 a.m. on March 6, 1973, fighting broke out among students in the multi-purpose room. Police had to be called to break up the fighting and four students were arrested. The other students had to be kept in their homerooms until the fighting subsided. A further summary of the events at Quail Hollow Junior High School is attached hereto and incorporated herein as Exhibit E.

(g) At Smith Junior High School on Tuesday, March 6, 1973, at about 8:00 a.m., one-half dozen students were involved in a fight. The school has been quiet thereafter. A further summary of events at Smith Junior High School is attached hereto and incorporated herein as Exhibit F.

(h) At Carmel Junior High School on Tuesday, March 6, 1973, at about 10:15 a.m., groups of black and white students gathered in the mall area as if to fight. School officials told them to go to class or leave campus. Several left campus, and the atmosphere remains tense. A further summary of events at Carmel Junior High School is attached hereto and incorporated herein as Exhibit G.

(i) At Myers Park High School on Tuesday, March 6, 1973, at about 8:30 a.m., several cars containing a number of young people who were not students at Myers Park began to arrive at the campus.

Police were called to keep intruders out. The school remains tense, and the school administration determined that it would be in the best interest of the school to have a staggered schedule beginning Wednesday, March 7. A further summary of events at Myers Park High School is attached hereto and incorporated herein as Exhibit H.

(j) At West Mecklenburg High School on Friday, March 2, 1973, a number of students in cars followed several of the school buses away from the campus, and threw rocks through the windows of some of the buses.

(k) The administration of the Charlotte-Mecklenburg School System is of the opinion that a state of emergency exists and is imminent within the System, and that injunctive relief is needed to protect the lives and property of students and faculty members, and the property of the School System.

WHEREFORE, your petitioner respectfully requests the Court to grant injunctive relief, and such other relief as it may deem just.

This 6th day of March, 1973.

ROLLAND W. JONES,
Superintendent
Charlotte-Mecklenburg
School System

WEINSTEIN, STURGES, ODOM
& BIGGER, P.A.
810 Baxter Street
Charlotte, North Carolina
28202
Phone: 704/333-0511

ATTORNEYS FOR THE
PETITIONER

(Verified by Rolland W. Jones on 6 day of March, 1973.)

ORDER

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

Filed March 6, 1973

STATE OF NORTH CAROLINA,
County of Mecklenburg.

STATE OF NORTH CAROLINA *ex rel*,
THOMAS F. MOORE, JR.,

versus

JOHN DOE, RICHARD ROE, and All Others
of Like Class and Situation, Defendants.

This matter comes on to be heard before the undersigned Resident Judge for the 26th Judicial District.

Upon petition of the Charlotte-Mecklenburg Board of Education that it becomes a party plaintiff to this action, and that, pursuant to the provisions of N.C.G.S. 14-288.18 an injunction issue because a state of emergency exists or is imminent within certain units of the Charlotte-Mecklenburg School System.

It appears from the verified petition that the operation of Charlotte-Mecklenburg Schools has been and is being disrupted; that disorders have resulted from the conduct of persons as set forth in the complaint; that a state of emergency exists or is imminent within units of Charlotte-Mecklenburg School System; and it further appearing that irreparable injury will be caused students of the public school system in Charlotte and Mecklenburg County unless this Order is issued;

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. The Charlotte-Mecklenburg Board of Education be and it is hereby made a party plaintiff in this action.

2. That the named defendants and each of them and all persons acting in concert with them or under their direction or orders or under the direction of any of them, and all other persons to whom knowledge of this Order may come are, until further orders of this Court hereby restrained and enjoined as follows:

A. From threatening or intimidating any student enrolled in any high school or junior high school unit operated by the Charlotte-Mecklenburg Board of Education, with the intent of interfering with the operation of such schools or to discourage attendance at such schools.

B. From going in the buildings or on the grounds of any high school or junior high school unit operated by the Charlotte-Mecklenburg Board of Education, with the following exceptions:

(1) Students at said schools attending classes or other regularly scheduled activities of the schools.

(2) Teachers, administrative employees, staff members and other employees of the schools while in attendance to their regular duties.

(3) Persons having permission from the administrative officers of the Charlotte-Mecklenburg Board of Education or from school principals.

(4) Members of the news media.

(5) Law Enforcement Officers and public officials in the discharge of their duties.

(6) Parents or guardians of students attending a school or other persons transporting students to or from a school when such entry is reasonably necessary for the purpose of such transportation.

C. From interfering with the orderly operation of buses used in the regular transportation of students to and from schools of the Charlotte-Mecklenburg School System whether the same be publicly or privately owned.

D. From threatening or intimidating with intent to interfere with the operation of the Charlotte-Mecklenburg Schools or to discourage attendance thereat, any students waiting for, upon, or coming from buses used to transport such students to and from the schools of the Charlotte-Mecklenburg System whether said buses are publicly or privately owned.

E. From carry on to the grounds or in the building of any unit of the Charlotte-Mecklenburg School System any firearm, knife, razor, bludgeon club, chain, or other object capable of being used as a weapon, provided that the prohibition against weapons shall not apply to law enforcement officers in pursuance of their duties.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Sheriff of Mecklenburg County immediately cause copies of this Order to be posted at conspicuous places at the senior and junior high schools of the Charlotte-Mecklenburg Board of Education, at the Board of Education Building in the City of Charlotte, and that copies be released to representatives of the press, radio and television media, and that all persons having knowledge of this Order shall be bound thereby.

IT IS FURTHER ORDERED AND ADJUDGED that the defendants appear before the Honorable Frank W. Snepp, Judge of the Superior Court in the Courthouse, Charlotte, North Carolina, on the 12th day of March, 1973, at 10 a.m. and show cause, if any there be, why this Order should not be continued.

This the 7th day of March, 1973.

FRANK W. SNEPP
Judge Presiding

ISSUED AT 7:20 P.M. this 7th day of March, 1973.

ORDER

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

Filed March 16, 1973

STATE OF NORTH CAROLINA,
County of Mecklenburg.

STATE OF NORTH CAROLINA *ex rel*,
THOMAS F. MOORE, JR.,

versus

JOHN DOE, RICHARD ROE, and All Others
of Like Class and Situation, Defendants.

This matter came on to be heard before the undersigned Resident Judge of the 26th Judicial District upon a show cause order issued March 6, 1973, as to why the restraining order issued herein upon the petition of the Charlotte-Mecklenburg Board of Education under the provisions of N.C.G.S. 14-288.18 should not be continued. In the order issued March 6, 1973, the Court found upon petition of the said Board of Education that a state of emergency existed or was imminent within the Charlotte-Mecklenburg school system and a temporary restraining order was, therefore, issued.

Upon the statement of counsel for the Charlotte-Mecklenburg Board of Education that the state of emergency no longer exists or is imminent within its units, it is, therefore, ORDERED, ADJUDGED and DECREED that the order issued by this Court March 6, 1973, be and it is hereby dissolved.

Upon the motion of the Charlotte-Mecklenburg Board of Education and Thomas F. Moore, Jr., District Attorney of the 26th Judicial District, the action is now dismissed.

This the 16th day of March, 1973.

/s/ FRANK W. SNEPP
Judge Presiding